

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO.332 OF 2007
IN
WRIT PETITION NO.994 OF 2007**

Jamuna Darshan Co-operative Hsg Soc Ltd ..Petitioner

Vs

1. The Municipal Corporation of
Greater Mumbai and anr. ..Respondents

Ms S.Bhandari for the petitioner.
Mr P.K.Samdani i/b Ajay Panikar, for respondent no.2
in support of Notice of Motion.
Ms A.R.Joshi, for the respondent-B.M.C.

**CORAM : D.B.BHOSALE, J.
DATED : 25th JULY, 2007.**

P.C.:

1. This notice of motion is taken out by respondent no.2 in Writ Petition No.994 of 2007 seeking to recall/set aside the order passed in the said writ petition by the learned Single Judge on 17.4.2007. The grievance of respondent no.2 is about the representation dated 25.5.2004 made by the petitioner, in writ petition no.994 of 2007, which the learned Single Judge has directed to be treated as an application under section 167 of the Bombay Municipal Corporation Act and to decide the same on merits in accordance with law. I am not entering into a controversy as to whether respondent no.2 was served by the petitioner in the writ petition.

2. After having heard Mr Samdani, learned counsel for respondent no.2 and Ms Bhandari, learned

counsel for the petitioner, and after having perused the material on record, I am satisfied that the following order shall meet the ends of justice.

(a) Respondent no.2 will have a right of audience as and when the representation dated 25.5.2004 will be heard and decided by the Assistant Assessor and Collector of the concerned Ward in pursuance of the order dated 17.4.2007. The said authority shall issue a notice to the petitioner and respondent no.2 of the hearing and will decide the same in accordance with law after hearing both. It is needless to express that the Corporation will not enter into an issue as to who is the owner of the land in dispute and shall restrict the scope of hearing for determining the rateable value. It is open for the petitioner and respondent no.2 to file their written submissions with documents, if any, in support thereof.

(b) Payment of taxes made by the petitioner and respondent no.2 would be without prejudice to their rights and contentions in the present petition and the notice of motion. All contentions of the parties are kept open. The notice of motion is disposed of.

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(D.B.Bhosale, J.)